

Transportation Security Administration, DHS

§ 1507.3

MINIMUM AND MAXIMUM CIVIL PENALTIES—ADJUSTED FOR INFLATION, EFFECTIVE MARCH 13, 2002

United States Code citation	Civil monetary penalty description	Minimum penalty	New adjusted minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or adjusted maximum penalty amount
49 U.S.C. 46301(a)(1)	Violations of statutory provisions listed in 49 U.S.C. 46301(a)(1), regulations prescribed, or orders issued under those provisions.	N/A	N/A	\$1,100 per violation, adjusted 1/21/97.	\$1,100 per violation, adjusted 1/21/97.
49 U.S.C. 46301(a)(2)	Violations of statutory provisions listed in 49 U.S.C. 46301(a)(2), regulations prescribed, or orders issued under those provisions by a person operating an aircraft for the transportation of passengers or property for compensation.	N/A	N/A	\$11,000 per violation, adjusted 1/21/97.	\$11,000 per violation, adjusted 1/21/97.

PART 1507—PRIVACY ACT-EXEMPTIONS

Sec.

1507.1 Scope.

1507.3 Exemptions.

AUTHORITY: 49 U.S.C. 114(l)(1), 40113, 5 U.S.C. 552a(j) and (k).

SOURCE: 69 FR 35537, June 25, 2004, unless otherwise noted.

§ 1507.1 Scope.

This part implements provisions of the Privacy Act of 1974 (the Act) that permit TSA to exempt any system of records within the agency from certain requirements of the Act. The procedures governing access to, and correction of, records in a TSA system of records are set forth in 6 CFR part 5, subpart B.

§ 1507.3 Exemptions.

The following TSA systems of records are exempt from certain provisions of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(j), (k), or both, as set forth in this section. During the course of normal agency functions, exempt materials from one system of records may become part of one or more other systems of records. To the extent that any portion of system of records becomes part of another Privacy Act system of records, TSA hereby claims the same exemptions as were claimed in the original primary system of which they are a part and claims

any additional exemptions in accordance with this part.

(a) *Transportation Security Enforcement Record System (DHS/TSA 001)*. The Transportation Security Enforcement Record System (TSERS) (DHS/TSA 001) enables TSA to maintain a system of records related to the screening of passengers and property and they may be used to identify, review, analyze, investigate, and prosecute violations or potential violations of transportation security laws. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 001 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of TSA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to transportation security law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension, which undermines the entire system.

(2) From subsection (d) (Access to Records), because access to the records

contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of TSA as well as the recipient agency. Access to the records would permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. The information contained in the system may also include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security sensitive information that could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigation into potential violations of transportation security laws, the accuracy of information obtained or introduced, occasionally maybe unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of transportation security laws, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(b) *Transportation Workers Employment Investigations System (DHS/TSA 002)*. The Transportation Workers Employment Investigations System (TWEI) (DHS/TSA 002) enables TSA to facilitate the performance of background checks on employees of transportation operators and others who are issued credentials or clearances by transportation operators, other than TSA employees. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 002 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H)

and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigate interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records), because access to the records contained in this system could reveal investigate techniques and procedures in the transportation workers employment investigation process, as well as the nature and scope of the employment investigation, the disclosure of which could enable individuals to circumvent agency regulations or statutes and obtain access to sensitive information and restricted areas in the transportation industry. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because third-agency records obtained or made available to TSA during the course of an employment investigation may occasionally contain information that is not strictly relevant or necessary to a specific employment investigation. In the interests of administering an effective and comprehensive transportation worker employment investigation program, it is appropriate and necessary for TSA to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules), because this system is

exempt from the access provisions of subsection (d).

(c) *Personnel Background Investigation File System (DHS/TSA 004)*. The Personnel Background Investigation File System (PBIFS) (DHS/TSA 004) enables TSA to maintain investigative and background material used to make suitability and eligibility determinations regarding current and former TSA employees, applicants for TSA employment, and TSA contract employees. Pursuant to exemption (k)(5) of the Privacy Act, DHS/TSA 004 is exempt from 5 U.S.C. 552a(c)(3) (Accounting for Disclosures) and (d) (Access to Records). Exemptions from the particular subsections are justified because this system contains investigative material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the applicability of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(d) *Internal Investigation Record System (DHS/TSA 005)*. The Internal Investigation Record System (IIRS) (DHS/TSA 005) contains records of internal investigations for all modes of transportation for which TSA has security-related duties. This system covers information regarding investigations of allegations or appearances of misconduct of current or former TSA employees or contractors and provides support for any adverse action that may occur as a result of the findings of the investigation. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 005 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of

the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records), because access to the records contained in this system could reveal investigative techniques and procedures of the Office of Internal Affairs and Program Review, as well as the nature and scope of the investigation, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because third-agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for TSA to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(e) *Correspondence and Matters Tracking Records (DHS/TSA 006)*. The Correspondence and Matters Tracking Records (CMTR) (DHS/TSA 006) system allows TSA to manage, track, retrieve, and respond to incoming correspondence, inquiries, claims and other matters presented to TSA for disposition,

and to monitor the assignment, disposition and status of such matters. This system covers information coming into TSA from individuals as well as information recorded by TSA employees in the performance of their duties. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 006 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records), because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and necessity of Information), because third-agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for TSA to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency rules), because this system is exempt from the access provisions of subsection (d).

(f) *Freedom of Information and Privacy Act Records (DHS/TSA 007)*. The Freedom of Information and Privacy Act (FOIA/PA) Records System (DHS/TSA 007) system enables TSA to maintain records that will assist in processing access requests and administrative appeals under FOIA and access and amendments requests and appeals under the PA; participate in associated litigation; and assist TSA in carrying out any other responsibilities under FOIA/PA. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, Freedom of Information and Privacy Act Records are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records), because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which would be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and necessity of Information), because third-agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for TSA to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(g) *General Legal Records System (DHS/TSA 009)*. The General Legal Records (GLR) System (DHS/TSA 009) enables TSA to maintain records that will assist attorneys to perform their functions within the office of Chief Counsel, to include providing legal advice, responding to claims filed by employees and others, and assisting in litigation and in the settlement of claims. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 009 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures), because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records), because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which would enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information,

the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because third-agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for TSA to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsections (d).

(h) *Federal Flight Deck Officer Records System (DHS/TSA 013)*. The Federal Flight Deck Officer Record System (FFDORS) (DHS/TSA 013) enables TSA to maintain a system of records documenting the application, selection, training, and requalification of pilots deputized by TSA to perform the duties of a Federal Flight Deck Officer (FFDO). Pursuant to exemptions (k)(1), (k)(2), and (k)(6) of the Privacy Act, DHS/TSA 013 is exempt from 5 U.S.C. 552a(c)(3), (d), and (e)(1). Exemptions from the particular subsections are justified for the following reasons:

(1) From (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records), because access to the accounting of disclosures in this system could reveal the identity of a confidential source that provided information during the background check process. Without the ability to protect the identity of a confidential source, the agency's ability to gather pertinent information about candidates for the program may be limited. In addition, the system might contain information that is properly classified, the release of which would pose a threat to national security and/or foreign policy, or information the disclosure of which could be

detrimental to the security of transportation pursuant to 49 U.S.C. 114(s). Finally, the agency must be able to protect against access to testing or examination material as release of this material could compromise the effectiveness of the testing and examination procedure itself. The examination material contained in this system is so similar in form and content to the examination material used in the selection process for TSA security screeners, or potential selection processes that TSA may utilize in the future, that release of the material would compromise the objectivity or fairness of the testing or examination process of those TSA employees.

(2) From (e)(1) (Relevancy and Necessity of Information), because information obtained or made available to TSA from other agencies and other sources during the evaluation of an individual's suitability for an FFDO position may occasionally include information that is not strictly relevant or necessary to the specific determination regarding that individual. In the interests of effective program administration, it is appropriate and necessary for TSA to collect all such information that may aid in the FFDO selection process.

(1) *Registered Traveler Operations Files (DHS/TSA 015)*. The purpose of this system is to pre-screen and positively identify volunteer travelers using advanced identification technologies and conduct a security threat assessment to ensure that the volunteer does not pose a security threat. This system may expedite the pre-boarding process for the traveler and improve the allocation of TSA's security resources on individuals who may pose a security threat. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 015 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of heightened security concerns relating to an actual or potential criminal, civil, or regulatory violation to the existence of an investigative interest on the part of the De-

partment of Homeland Security or another Federal law enforcement or other recipient agency. Disclosure of the accounting would therefore present a serious impediment to transportation security law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the program suitability determination, which undermines the entire system.

(2) From subsection (d) (Access to Records) because access to some of the records contained in this system of records could permit the individual who is the subject of a record to impede the program suitability determination. Amendment of the records would interfere with ongoing security assessment investigations and program suitability determinations and impose an impossible administrative burden by requiring such investigations to be continuously reinvestigated. The information contained in the system may also include classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose sensitive security information protected pursuant to 49 U.S.C. 114(s) and 49 CFR part 1520, the disclosure of which could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of screening applicants for program suitability, TSA must be able to review information from a variety of sources. What information is relevant and necessary may not always be apparent until after the evaluation is completed. In the interests of transportation security, it is appropriate to include a broad range of information that may aid in determining an applicant's suitability for the Registered Traveler program.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access and amendment provisions of subsection (d).

[69 FR 35537, June 25, 2004, as amended at 70 FR 33384, June 8, 2005]